

REMARKS

Claims 40-75 are pending in this application. Claims 40-44, 46, 47, 49-63 and 67-75 stand rejected.

Applicants note with appreciation the indication that Claims 45, 48 and 64-66 are allowable if rewritten in independent form. However, the claims have not been so amended because it is believed that the respective base claims are also allowable.

Rejection of Claim 75 under 35 U.S.C § 112

Claim 75 has been rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Examiner states that it is unclear whether the text in the parenthesis (“PUT”) is part of the claim. Applicants note that “PUT” is an acronym for “program under test,” which is the claim limitation immediately preceding “PUT.” Support for this limitation and acronym is found on page 4, lines 21-26 of the Specification as originally filed. Thus, Claim 75 is believed to be allowable, and so removal of the § 112 rejection of Claim 75 is respectfully requested.

Rejection of Claims 40-44, 46-47, 49-58, 60, 61 and 67-75 under 35 U.S.C. § 101

Claims 40-44, 46-47, 49-58, 60, 61 and 67-75 have been rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Accordingly, base Claims 40, 54 and 75 have been amended to recite that the “collected data,” being a result of the present invention, is “stored” at or by a remote system. Support for this amendment is found at least on page 8, line 36 – page 9, line 2, and page 11, lines 3-8, of the Specification as originally filed. Here, the Specification describes analyzing the collected data at the remote server to “fix bugs in the PUT, track feature utilization,” or “optimize execution of the PUT.” One of ordinary skill in the art will appreciate that, in order to perform such analysis at the remote server, the collected data must be stored to some computer-readable storage medium, which is then read by the remote server for analysis as described above.

Thus, amended base Claims 40, 54 and 75 are now believed to be directed to statutory subject matter. Claims 41-44, 46-47, 49-53, 55-58, 60, 61 and 67-74 depend from one of base Claims 40 and 54 and thus the foregoing applies. As a result, the § 101 rejection of Claims 40-44, 46-47, 49-58, 60, 61 and 67-75 is believed to be overcome, and reconsideration is respectfully requested.

Double Patenting

Claims 54, 56-59, 62, 63 and 67-70 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 and 7-11 of U.S. Patent No. 6,634,001. A Terminal Disclaimer is being filed concurrently with this Amendment to disclaim any terminal part of a patent that may issue from the Application that extends beyond the expiration of U.S. Patent No. 6,634,001. Accordingly, the double patenting rejection of Claims 54, 56-59, 62, 63 and 67-70 is believed to be overcome.

Information Disclosure Statement

A Supplemental Information Disclosure Statement (SIDS) is being filed concurrently herewith. Entry of the SIDS is respectfully requested.

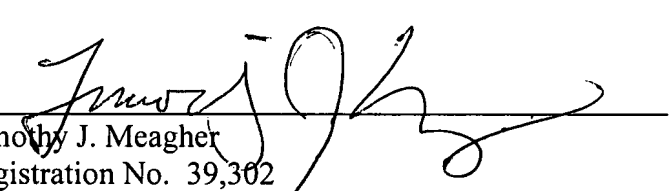
CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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